

TOMEKA S. WINSTON,
Plaintiff,
vs.
CARGILL, INC., et al.,
Defendants.

Plaintiff, Tomeka S. Winston, has filed a complaint and amended complaint under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. against Smith Doyle Contractors, Neil Christenbury, Cargill, Inc., Supervisors Martin Crowder and Amanda Jordan, Operations Manager Tim Campbell, and FSG Manager Joe Sparks alleging that Defendants discriminated against her on the basis of her sex and retaliated against her for filing a complaint with the Equal Employment Opportunity Commission.

The Court is required to screen in forma pauperis complaints and to dismiss any complaint, or any portion thereof, if the action-

- (I) is frivolous or malicious;
- (ii) fails to state a claim on which relief may be granted; or
- (iii) seeks monetary relief against a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2). Certain aspects of Plaintiff's complaint are subject to dismissal.

Winston cannot sue Supervisors Neil Christenbury, Martin Crowder and Amanda Jordan, Operations Manager Tim Campbell, and FSG Manager Joe Sparks under Title VII because there is no personal liability under the employment discrimination statutes against a supervisor who does not otherwise qualify as an "employer." Wathen v. General Electric Co., 115 F.3d 400, 405 (6th Cir. 1997). Because the complaint does not state a viable Title VII claim against Defendants Neil Christenbury, Martin Crowder, Amanda Jordan, Tim Campbell and Joe Sparks, the Court DISMISSES the discrimination claims against them, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(I) & (ii), as frivolous and for failure to state a claim on which relief can be granted.

It is ORDERED that the Clerk shall issue process for Defendants Smith Doyle Contractors and Cargill, Inc. on Plaintiff's claim of violations of Title VII and deliver said process to the marshal for service.

Service shall be made on those Defendants either by mail pursuant to Rule 4(e)(1) and Tenn. R. Civ. P. 4.03 and 4.04(10) or personally pursuant to Rule 4(h)(1) and Tenn. R. Civ. P. 4.04(4) if mail service is not effective. The registered agent for service of process for Smith Doyle Contractors is Wayne L. Smith, 1635 Wynne Road, Cordova, TN, 38016-4905. The registered agent for service of process for Defendant Cargill, Inc. is C T Corporation System, Suite 2021, 800 S. Gay St., Knoxville, TN 37929-9710.

It is ORDERED that Winston shall serve a copy of every further document filed in this cause on the attorneys for Defendants, or on the Defendant if it has no attorney. Plaintiff shall make a certificate of service on every document filed. She shall promptly notify the Clerk of any change of address or whereabouts. Failure to comply with these requirements, or any other order of the Court, may result in this case being dismissed without further notice.

IT IS SO ORDERED this 22nd day of April, 2008.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE